

**KAHNAWAKE LANDS**

**January 17, 2001**

**DRAFT SUB-AGREEMENT  
WITH RESPECT TO KAHNAWAKE LANDS**

**BETWEEN**

The Mohawks of Kahnawake, acting through the Mohawk Government of Kahnawake, as represented by the Grand Chief of the Mohawks of Kahnawake (hereinafter referred to as "Kahnawake")

**AND**

Her Majesty the Queen in Right of Canada as represented by the Minister of Indian Affairs and Northern Development (hereinafter referred to as "Canada")

**NOTE: This document will form the basis for consultation by each party.**

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1. This is the draft sub-agreement with respect to Kahnawake Lands as contemplated by clause 9(c) of the Umbrella Agreement and it includes the provisions of the Umbrella Agreement.

**NOW THEREFORE THE PARTIES** agree that:

## **DEFINITIONS**

“Agreement” means this draft Sub-Agreement with respect to Kahnawake Lands;

“Final Agreement” means the sub-agreement with respect to Kahnawake Lands to be concluded substantially in the form of this Agreement.

## **PURPOSE**

2. This Agreement describes the jurisdiction or authority to be exercised by Kahnawake with respect to Kahnawake Lands.

## **PART I: DESCRIPTION OF JURISDICTION**

3. Kahnawake has jurisdiction with respect to the development, management, control, use and possession of Kahnawake Territory including but not limited to:
  - (a) land use planning, surveys excluding the determination of the location of the exterior boundaries of the Kahnawake Territory, subdivision and development;
  - (b) granting and regulating of interests;
  - (c) provision of local services and the imposition of equitable user charges;
  - (d) setting aside and taking of land for collective or public purposes without the consent of interest holders in accordance with the principles set out in the Kahnawake Charter;
  - (e) a system to register rights and interests in lands;
  - (f) the transfer by testamentary disposition or succession of any interest in Kahnawake Territory;
  - (g) the rules and procedures applicable to the use, occupation and possession of any interest in Kahnawake Territory, and to the division of interests in Kahnawake Territory, in cases of breakdown of a marriage; and
  - (h) administration of any interest in land held by minors.
4. The matter of the extent of the application of the *Canada Land Surveys Act* will be dealt with

in the Sub-Agreement with respect to Lands.

5. All matters included in clause 3 (b), (f), (g) and (h) will be dealt with in the same law.
6. For greater certainty, the rules and procedures referred to in clause 3(g) will not discriminate on the basis of gender.

## **PART II: SPECIFIC RULES FOR RESOLVING CONFLICTS BETWEEN LAWS**

7. Kahnawake laws enacted pursuant to this sub-agreement will apply to their fullest extent in Kahnawake Territory.
8. In the event of a conflict between a provision of a Kahnawake law, which provision is in relation to Kahnawake lands, and a provision of a federal law, which provision is in relation to lands reserved for, or under the control of a First Nation community, the provision of the Kahnawake law will prevail.

## **PART III: INTERIM PROVISIONS WITH RESPECT TO ENVIRONMENT**

9. Unless otherwise provided in this section, words and expression used in this section have the same meaning as in the *Canadian Environmental Assessment Act* (CEAA).
10. Until Kahnawake enacts environmental assessment laws pursuant to a sub-agreement with respect to the environment, Kahnawake will ensure that:
  - (a) projects on Kahnawake Territory other than those which might be exempt under the CEAA or its successor legislation are assessed in accordance with the principles, elements and factors of environmental assessment as set out in the CEAA and with such modifications as are required to reflect the decision-making responsibility undertaken by Kahnawake towards the project before they are authorized by Kahnawake; and
  - (b) proposed projects that are likely to have significant adverse environmental effects are not authorized before they are subject to a public review before a mediator or a panel review, in accordance with the CEAA provisions for public review.

11. The Parties will negotiate a sub-agreement with respect to the environment pursuant to clause 9(f) of the Umbrella Agreement, within one year, or such further time as the Parties may agree, after Kahnawake exercises jurisdiction with respect to the clause 3(b) of this Agreement.

**PART IV: STATUS OF THIS AGREEMENT**

12. The parties agree to use this Agreement as the basis for negotiating a Final Agreement.
13. This Agreement does not create legal obligations binding on the parties.

**PART V: STATEMENT REGARDING OTHER GOVERNMENTS**

14. Kahnawake may advise Quebec of the exercise of jurisdiction with respect to lands.
15. Kahnawake may enter into agreements with other governments or departments with regard to lands matters.

**PART VI: INDIAN ACT PROVISIONS WHICH NO LONGER APPLY**

16. The sub-agreement with respect to Kahnawake lands will identify the *Indian Act* provisions that will cease to apply on the coming into force of the Kahnawake law with respect to the granting and the regulating of interests in land.

**PART VII: RATIFICATION OF THE FINAL AGREEMENT**

17. Kahnawake will ratify the Final Agreement as set out in the Umbrella Agreement.
18. Canada will ratify the Final Agreement as set out in the Umbrella Agreement.

**PART VIII: TRANSITIONAL MEASURES**

19. Kahnawake and Canada may enter into interim agreements with respect to Kahnawake Lands prior to the exercise of jurisdiction by Kahnawake.

**draft**